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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/423,207	11/03/1999	THORBJORN ANDERSSON	027650-836	6484

7590 04/13/2004

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EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/423,207	Applicant(s) ANDERSSON ET AL.	
	Examiner Marc A Patterson	Art Unit 1772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1,3 and 4.

Claim(s) withdrawn from consideration: none.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See attached.

ADVISORY ACTION

Applicant's arguments filed March 10, 2004 have been fully considered but have not been found to be persuasive.

1. Applicant argues, on page 2 of Paper No. 23, that the rejection is improper because when viewing Applicant's accompanying Figure, one of ordinary skill in the art would readily understand that there is no supplemental supporting structure exterior to either of the claimed outer layers. However, a wall structure having no supplemental supporting structure is not claimed, and the phrase 'wall structure' does not exclude structures having supplemental support.

Applicant also argues on page 2 that the plain language of the claim requires that the solid layers of plastic constitute the outermost portion of the wall. However, the term 'outermost' does not appear in the claim, and therefore cannot be said to be contained in the plain language. Furthermore, the label disclosed by Heider constitutes a wall structure, as stated on page 3 of the previous Action, and has solid layers at the outermost portion of the wall (column 2, lines 32 – 35; Figure 2).

Applicant also argues, on page 3, that when the Heider label is incorporated into the bottle, the outer layers of the Heider label do not constitute the outer layer of the resulting wall unless the word 'outer' is interpreted to have a meaning that is inconsistent with its plain meaning. However, because the solid layers of Heider are each positioned immediately on either side of the intermediate layer disclosed by Heider, and are therefore outer layers relative to the intermediate layer. Furthermore, as stated above, label disclosed by Heider constitutes a wall structure and has outermost solid layers.

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Applicant also argues on page 3 that the label disclosed by Heider cannot function independently as a wall in a bottle. However, as stated above, the phrase 'wall structure' does not exclude structures having supplemental support.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (571) 272 – 1497. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (571) 272 – 1498. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
Art Unit 1772

William P. Watkins III

**WILLIAM P. WATKINS III
PRIMARY EXAMINER**